



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/088,535

08/07/2002

Kjell Christensen

03438.0085

5281

7590

11/21/2003

Finnegan Henderson Farabow
Garrett & Dunner
1300 I Street NW
Washington, DC 20005

EXAMINER

FLYNN, AMANDA R

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 11/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,535

Applicant(s)

CHRISTENSEN, KJELL

Examiner

Amanda R. Flynn

Art Unit

3743

-- Th MAILING DATE of this communication app ars on th cover sh t with th correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 10-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☒ Claim(s) 3-9 is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,4,5.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 1-9) in Paper No. 10 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 10-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 10.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Reference number 2: "bottom". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "devices for supplying air" must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

5. The specification is objected to because it lacks proper section headings, such as "Brief Description of the Drawings," "Detailed Description of the Drawings," etc.

The specification is objected to because it employs the British spelling of several words, including "fibre".

Appropriate correction is required.

6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Whirlpool with Removable Bottom.

7. Claims 4-9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependant claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Objections

8. Claim 1 is objected to because of the following informalities: The references numerals "8a, 8b" are used to describe both the "distributing chamber" and the "supply chambers," while the specification only describes reference numerals "8a, 8b" as "chambers." Appropriate clarification or correction is required.

Line 17 recites, "the bottom elements are". However, in the previous recitation of "bottom element" (line 9) the phrase occurred in its singular form. Because it appears that claim 1 only requires one "bottom element," it is requested that line 17 is corrected to read: --the bottom element is--.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In line 2 of claim 2, it is unclear what structure is being referred to by the term "it." It is unclear to the examiner what limitation of the independent claim 1 is being modified by this clause.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Canadian Application Number 2,039,801 to Schydlo in view of U.S. Patent Number 5,448,787 to Allen.

Schydlo discloses a whirlpool bathtub (10), as seen in Figure 5, comprising a tub part with a bottom (12) which is provided with flow-through apertures for supplying air to water in the bathtub, and devices for supplying air to the flow-through apertures, wherein the bottom (12)

Art Unit: 3743

is provided with at least one recess (38) which is flow-relatedly connected with the devices for supply of air. The recess is covered by a bottom element (24) that abuts sealingly against a sealing edge of the recess, thereby forming an air-distributing chamber in the recess. The bottom element is provided with through-flow apertures for supplying air to the water in the tub. The recess and bottom element appear to be at least partially symmetrical about a vertical axis through the center of the recess (See Figure 5). Schydlo discloses that the bottom element (24) is placed detachably on attachment devices (i.e., partitions 40) centrally located in the recess, so that it can be easily removed for cleaning. While Schydlo discloses that the bottom element is centrally secured to the tub bottom, Schydlo does not specify that an upper attachment device cooperates with a lower attachment device to secure the bottom element to the recess.

Allen discloses a whirlpool bathtub comprising a tub with a bottom that is provided with flow-through apertures for supplying air to water in the bathtub. A recess in the bottom of the tub is loosely covered by a bottom element (22) that is secured to the recess by mating attachment devices, specifically, by a screw and nut (see Figures 2 and 5) to effect a secure attachment.

It would have been obvious to one skilled in the art at the time the invention was made to have provided the whirlpool bathtub disclosed by Schydlo, wherein the centrally located attachment of the bottom element to the recess of the tub is effected by a mating screw and nut, as taught by Allen, for secure attachment.

Regarding claim 2, Schydlo teaches two identically shaped bottom elements (24) in an alternate view of the invention (Figure 4). The multiple, identical bottom elements allow for efficient whirlpool action. It would have been obvious to one skilled in the art at the time the invention was made to have provided the whirlpool bathtub disclosed by Schydlo in view of

Art Unit: 3743

Allen, with multiple, identical recesses and bottom elements (24), to provide efficient whirlpool action.


Allowable Subject Matter

13. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

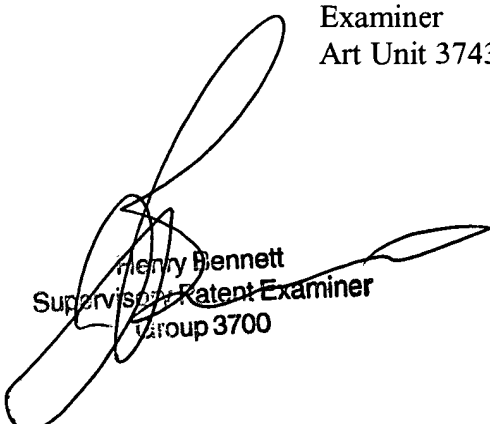
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amanda R. Flynn whose telephone number is 703-306-4056. The examiner can normally be reached on Monday-Thursday, 8:30 - 6:00 and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Amanda R. Flynn
Examiner
Art Unit 3743


arf


Henry Bennett
Supervisor Patent Examiner
Group 3700